IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9080 of 2005

Between:

The Fishermen Cooperative Society Ltd. Regn. No. 1-48, Village Rangampally, Mandal Parigi, Rangareddy District, Rep by its President, Sri K. Lingaiah, S/o. Late Chandraiah, aged 49 years, R/o. Rangampally Village

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep by its Principal Secretary, Panchayat Raj & Rural Development, (PTS-IV) Department, Secretariat, Hyderabad.
2 The District Magistrate & Collector (Panchayat Wing), Ranga Reddy District.
3 The District Panchayat Officer, Rangareddy District, Hyderabad.
4 The Divisional Panchayat Officer, Chevella, Ranga Reddy District.
5 The Asst. Director of Fisheries, Rangareddy District, Hyderabad.
6 The Sarpanch, Rangampally, Parigi Mandal, Rangareddy District. Parigi Mandal, Rangareddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, Order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 1st Respondent in fixing the annual Lease amount at Rs.30,000/- by proceedings in Memo No. 4246/Pts.IV/2005-1 Dated 15-4-2005 in respect of lease hold rights of 4 tanks namely i) Pedda Cheruvu, (ii) Chintala Cheruvu, iii) Ura Kunta, iv) Chakali Kunta, situated at Rangampally Village, Parigi Mandal, Rangareddy District, highly as illegal, arbitrary, discriminatory, contrary to the orders issued by the Government of A.P. and also violative of principles of natural justice apart from being violative of Articles 14, 21 of the constitution of India consequently set-aside the Memo No. 4246/Pts.IV/A1/2005-1 Dated 15-4-2005 issued by the 1st Respondent and to pass such other order or

orders as this Honourable Court may deem fit and proper in the circumstances of the case

Counsel for the Petitioner : MR. D.L.PANDU

Counsel for the Respondent Nos. 1 to 5 : GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.6: Ms. G. Jyothi Eswar.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.9080 OF 2005

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ORDER :

The petitioner is a society registered under the provisions of the A.P. Co-operative Societies Act, 1964 (for short, 'the Act'). It is stated that there are 130 members in the society and all of them are eking out their livelihood by catching fish in the tanks namely (1) Peddacheruvu (2) Chinthala Cheruvu (3) Ura kunta and (4) Chakali Kunta situated at Rangampally Village, Parigi Mandal, Rangareddy District, by paying the lease amount regularly to the Gram Panchayat. It appears that originally the lease amount was fixed by the Gram Panchayat at Rs.600/- per annum and subsequently it was enhanced to Rs.800/- and for the year 2003-04 the petitioner Society has paid the said amount of Rs.800/- on 23-7-2004. However, the 6th respondent – Sarpanch of Gram Panchayat issued a Demand Notice dated 16-12-2004 demanding a sum of Rs. 35,000/- towards the annual lease amount. Aggrieved by the same, the petitioners filed W.P.No.23754 of 2004. The said writ petition was disposed of by this Court by order dated 21-12-2004 granting liberty to the petitioner to file a Review Petition before the District Collector against the proceedings dated 14-12-2004 of the Divisional Panchayat Officer, Chevella Division, on the basis of which the demand notice dated 16-12-2004 was issued. In pursuance thereof, the petitioner society filed a Review Petition which was disposed of by the 2nd respondent by order dated 10-2-2005 fixing the annual lease amount at Rs.4,850/-. Challenging the said order, the sixth respondent filed a Revision Petition before the 1st respondent – Government. Pending the said Revision Petition, the Government granted stay of the order, dated 10-2-2005. Though the petitioner filed

W.P.No.4545 of 2005 questioning the order of stay, this Court declined to interfere and disposed of the writ petition leaving it open to the petitioner society to approach the first respondent with an appropriate application. Thereafter, having heard both the parties, the 1st respondent passed the impugned order dated 15-4-2005 fixing the annual lease amount at Rs.30,000/- for the four tanks put together. The said order is under challenge in this writ petition.

I have heard the learned Counsel for the petitioner, the learned Government Pleader appearing for the respondents 1 to 5 and the learned Counsel appearing for the 6th respondent – Gram Panchayat.

As can be seen from the averments in the affidavit and the submissions made by the learned Counsel for the petitioner, the only challenge of the petitioner appears to be that the members of the petitioner society cannot afford to pay the lease amount of Rs.30,000/- which according to the petitioner is very high. It is pleaded that if the respondents are allowed to collect the said amount the members of the petitioner society will be put to irreparable loss and damage and their families will be thrown on the streets.

It is relevant to note that under Rule 2(b) of the Rules relating to leasing of fishery rights in minor irrigation tanks and other courses vested in the Gram Panchayats under the A.P. Gram Panchayat Act, 1964, made under G.O.Ms.No.343, P.R., dated 10-4-1978, the Divisional Panchayat Officer shall, on an application made by the Executive Authority of the Gram Panchayat furnishing the particulars of revenue with regard to lease of minor irrigation tanks or other sources during the past five years, fix the upset price duly considering the revenue of the previous years, market value and other factors and communicate the same to the Executive Authority. As per the proviso to the said Rule, the Collector (Panchyats) shall have power to revise the upset price fixed by the Divisional Panchayat Officer.

In the case on hand, it is not in dispute that the Divisional Panchayat Officer having taken into consideration all the relevant factors, by proceedings dated 14-12-

2004 fixed the upset price in respect of the four tanks in question as Rs.35,000/- per year. The material on record shows that the Committee consisting of the Divisional Panchayat Officer, the Fisheries Development Officer, Mandal Parishad Development Officer and Sarpanch of the Gram Panchayat personally inspected the four tanks and having noticed the area of the tanks, the water storage capacity and the possible yield of the fish etc., submitted their individual reports. The Divisional Panchayat Officer, who is the Chairman of the said Committee having considered all the said reports, by proceedings dated 14-12-2004 fixed the annual lease amount for the year 2004-05 at Rs.35,000/-. It is true that the District Collector, on a Review Petition, has reduced the same to Rs.4,850/- from Rs.35,000/-. It appears that the said decision was taken on the basis of the prevailing sale price of the fish as suggested by the Fisheries Development Officer. However, in the Revision Petition against the order of the District Collector, the first respondent having heard the District Panchayat Officer, the Assistant Director of Fisheries, the Sarpanch of Gram Panchayat as well as the President of the petitioner society and particularly keeping in view the economic position of the petitioner society and their families, fixed Rs.35,000/- as the lease amount for four tanks. The conclusion of the 1st respondent is based on proper appreciation of the material on record and I do not see any justifiable reason to hold that the said order is either perverse or without application of mind to the relevant factors. The said order which is in tune with the upset price fixed by the Divisional Panchayat Officer, who is the competent authority under the Statutory Rules, on the basis of the personal inspection made by the Committee constituted for the said purpose is in accordance with law and does not suffer from any infirmity.

The writ petition is devoid of any merit and absolutely no case is made out warranting interference of this Court under Article 226 of the Constitution of India.

The Writ Petition is accordingly dismissed. No costs.

26th April, 2005.

Note:- Issue CC today.

(B/O)

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To

1 The Principal Secretary, Government of Andhra Pradesh, Panchayat Raj & Rural Development, (PTS-IV) Department, Secretariat, Hyderabad.
2 The District Magistrate & Collector (Panchayat Wing), Ranga Reddy District.
3 The District Panchayat Officer, Rangareddy District, Hyderabad.
4 The Divisional Panchayat Officer, Chevella, Ranga Reddy District.
5 The Asst. Director of Fisheries, Rangareddy District, Hyderabad.
6 The Sarpanch, Rangampally, Parigi Mandal, Rangareddy District.
Parigi Mandal, Rangareddy District.

7. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court of AP Bldgs, Hyderabad (OUT).

8. Two CD copies.